

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

This action is taken under 50 CFR 622.43(a) and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: April 30, 2008.

Emily H. Menashes,
Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 010319075-1217-02]

RIN 0648-XF91

Fisheries of the Northeastern United States; Tilefish Fishery; Quota Harvested for Full-time Tier 2 Category

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; tilefish Full-time Tier 2 permit category closure.

SUMMARY: NMFS announces that the percentage of the tilefish annual total allowable landings (TAL) available to the tilefish Full-time tier 2 permit category for the 2008 fishing year will be harvested on May 8, 2008. Therefore, commercial vessels fishing under the tilefish Full-time Tier 2 permit may not harvest tilefish from within the Golden Tilefish Management Unit for the remainder of the 2008 fishing year (through October 31, 2008) as of May 8, 2008. Regulations governing the tilefish fishery require publication of this notification to advise the public of this closure.

DATES: Effective 0001 hrs local time, May 8, 2008, through 2400 hrs local time, October 31, 2008.

FOR FURTHER INFORMATION CONTACT: Timothy A. Cardiasmenos, Fishery Policy Analyst, at (978) 281-9204.

SUPPLEMENTARY INFORMATION: Regulations governing the tilefish

fishery are found at 50 CFR part 648. The regulations require annual specification of a TAL for federally permitted tilefish vessels harvesting tilefish from within the Golden Tilefish Management Unit. The Golden Tilefish Management Unit is defined as an area of the Atlantic Ocean from the latitude of the VA and NC border (36°33.36' N. lat.), extending eastward from the shore to the outer boundary of the exclusive economic zone, and northward to the U.S.-Canada border. After 5 percent of the TAL is deducted to reflect landings by vessels issued an open-access incidental permit category, and after up to 3 percent of the TAL is set aside for research purposes, should research TAL be set aside, the remaining TAL is distributed among three tilefish limited access permit categories: Full-time tier 1 category (66 percent), Full-time tier 2 category (15 percent), and the Part-time category (19 percent).

The TAL for tilefish for the 2008 fishing year was set at 1.995 million lb (905,172 kg) and then adjusted downward by 5 percent to 1,895,250 lb (859,671 kg) to account for incidental catch. There was no research set-aside for the 2007 fishing year. Thus, the Full-time Tier 2 permit quota for the 2008 fishing year, which is equal to 15 percent of the TAL, was specified at 284,288 lb (106,108 kg). Notification of the 2008 Full-time Tier 2 category quota for the 2008 fishing year was sent in a Permit Holder Letter to all tilefish limited access permit holders on October 18, 2007.

The Administrator, Northeast Region, NMFS (Regional Administrator) monitors the commercial tilefish quota for each fishing year using dealer reports, vessel catch reports, and other available information to determine when the quota for each limited access permit category is projected to have been harvested. NMFS is required to publish notification in the **Federal Register** notifying commercial vessels and dealer permit holders that, effective upon a specific date, the tilefish TAL for the specific limited access category has been harvested and no commercial quota is available for harvesting tilefish by that category for the remainder of the fishing year, from within the Golden Tilefish Management Unit.

The Regional Administrator has determined, based upon dealer reports

and other available information, that the 2008 tilefish TAL for the Full-time Tier 2 category will be harvested as of May 8, 2008. Therefore, effective 0001 hr local time, May 8, 2008, further landings of tilefish harvested from within the Golden Tilefish Management Unit by tilefish vessels holding Full-time Tier 2 category Federal fisheries permits are prohibited through October 31, 2008. The 2009 fishing year for commercial tilefish harvest will open on November 1, 2008. Federally permitted dealers are also advised that, effective May 8, 2008, they may not purchase tilefish from Full-time Tier 2 category federally permitted tilefish vessels who land tilefish harvested from within the Golden Tilefish Management Unit for the remainder of the 2008 fishing year (through October 31, 2008).

Classification

The Assistant Administrator for Fisheries, NOAA (AA), finds good cause pursuant to 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment because it would be contrary to the public interest. If implementation of this closure were delayed to solicit prior public comment, the quota for this category would be exceeded, given the rate of harvest of tilefish for vessels in this category. This would conflict with the agency's legal obligation under section 304(e) of the Magnuson-Stevens Act to prevent overfishing and to rebuild this fishery as soon as possible. Overage of the Full-time tier 2 category quota that occurs in a given fishing year is subtracted from the quota for this category in the following fishing year. Thus, allowing an overage would have a negative economic impact on owners of vessels permitted in the Full-time tier 2 category, who did not contribute to the overage this year, and who would fish during the next fishing year. The AA further finds, pursuant to 5 U.S.C. 553(d)(3), good cause to waive the 30-day delayed effectiveness period for the reasons stated above.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: April 30, 2008.

Emily H. Menashes,
Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
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